

Appl. No. : 09/593,587
Filed : June 13, 2000

REMARKS

Applicants acknowledge with thanks the Examiner's indication of allowable subject matter in Claims 1, 4, 7-9, 14-15 and 20-23 once the claims or the claims from which they depend are amended to overcome the rejections under 35 U.S.C. § 112. Claims 5-6 and 12-13 stand withdrawn. By this paper, Claims 1, 7, 9, 10, 14, 18, and 20-23 have been amended. Thus, Claims 1, 4-10, 12-15, 18, and 20-23 are pending in the application and are presented for reconsideration and further examination in view of the amendments and the following remarks.

Claim Rejections under 35 U.S.C. § 112

Claims 1, 4, 7-9, 14-15, 18, 20, and 23 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Office Action identifies, for example, the terms "greater than about 3 microns" and "less than approximately 1 micron" as being open-ended numerical ranges. Applicants respectfully disagree with the Examiner's position since an interpretation of the claims to include infinity as an upper bound and zero as a lower bound would distort the overall meaning of the claims (see M.P.E.P. 2173.05(c) and *In re Kirsch*, 498 F.2d 1389 (CCPA 1974)).

However, to further prosecution, Applicants have amended the claims to exclude fibers having a diameter of zero as well as fibers having an infinite diameter.

Applicants respectfully request that the rejection of Claims 1, 4, 7-9, 14-15, 18, 20, and 23 for indefiniteness be withdrawn.

Claim Rejections under 35 U.S.C. § 102(e) in view of Fetcenko et al.

Claims 10 and 18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Fetcenko et al. (U.S. Patent No. 6,177,213). Applicant has amended Claims 10 and 18 to more clearly point out the subject matter claimed.

Fetcenko et al. is directed to a positive electrode material having at least one conductive particle embedded in the positive electrode material. (see column 8, lines 8-34). Figure 2 illustrates a branching tree-like conductive network formed by an embedded conductive particle. However, the conductive network in Fetcenko et al. is different from the arrangement of the plurality of fibers in Claim 10 and the first plurality of fibers in Claim 18.

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For example, Claim 18 is directed to a material where, among other elements, a "first plurality of fibers are predominantly aligned and form a sheet that extends in a direction substantially perpendicular to the first plurality of fibers." (emphasis added). Unlike Figure 2 of the Fetcenko et al. reference, which discloses an arrangement of branches extending in a disorganized variety of directions, Applicant's first plurality of fibers form a sheet that extends in a direction substantially perpendicular to the first plurality of fibers. The Fetcenko et al. reference fails to disclose, *inter alia*, this structure. Claim 10 was similarly amended. Therefore, Applicant respectfully requests that the rejection of Claims 10 and 18 as being anticipated by the Fetcenko et al. reference be withdrawn.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is earnestly requested.

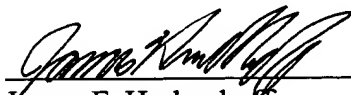
The undersigned has made a good faith effort to respond to all of the noted rejections and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if an issue requires clarification, the Examiner is respectfully requested to call Applicant's attorney, James Herkenhoff at (619) 687-8663 (direct line), in order to resolve any such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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